

SMALL BUSINESS ACT

See Legislative History, p. 3071

PUBLIC LAW 85-536; 72 STAT. 384

[H. R. 7963]

An Act to amend the Small Business Act of 1953, as amended.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

Title II of the Act of July 30, 1953 (Public Law 163, Eighty-third Congress), as amended,²⁷ is hereby withdrawn as a part of that Act and is made a separate Act to be known as the "Small Business Act".

Sec. 2. The Small Business Act is amended to read as follows:

"Sec. 1. This Act may be cited as the 'Small Business Act'.

"Sec. 2. (a) The essence of the American economic system of private enterprise is free competition. Only through full and free competition can free markets, free entry into business, and opportunities for the expression and growth of personal initiative and individual judgment be assured. The preservation and expansion of such competition is basic not only to the economic well-being but to the security of this Nation. Such security and well-being cannot be realized unless the actual and potential capacity of small business is encouraged and developed. It is the declared policy of the Congress that the Government should aid, counsel, assist, and protect, insofar as is possible, the interests of small-business concerns in order to preserve free competitive enterprise, to insure that a fair proportion of the total purchases and contracts for property and services for the Government (including but not limited to contracts for maintenance, repair, and construction) be placed with small-business enterprises, to insure that a fair proportion of the total sales of Government property be made to such enterprises, and to maintain and strengthen the over-all economy of the Nation.

"(b) Further, it is the declared policy of the Congress that the Government should aid and assist victims of floods and other catastrophes.

"Sec. 3. For the purposes of this Act, a small-business concern shall be deemed to be one which is independently owned and operated and which is not dominant in its field of operation. In addition to the foregoing criteria the Administrator, in making a detailed definition, may use these criteria, among others: Number of employees and dollar volume of business. Where the number of employees is used as one of the criteria in making such definition for any of the purposes of this Act, the maximum number of employees which a small-business concern may have under the definition shall vary from industry to industry to the extent necessary to reflect differing characteristics of such industries and to take proper account of other relevant factors.

"Sec. 4 (a) In order to carry out the policies of this Act there is hereby created an agency under the name 'Small Business Adminis-

27. 15 U.S.C.A. § 631 et seq.

tration' (herein referred to as the Administration), which Administration shall be under the general direction and supervision of the President and shall not be affiliated with or be within any other agency or department of the Federal Government. The principal office of the Administration shall be located in the District of Columbia. The Administration may establish such branch and regional offices in other places in the United States as may be determined by the Administrator of the Administration. As used in this Act, the term 'United States' includes the several States, the Territories and possessions of the United States, the Commonwealth of Puerto Rico, and the District of Columbia.

"(b) The management of the Administration shall be vested in an Administrator who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate, and who shall be a person of outstanding qualifications known to be familiar and sympathetic with small-business needs and problems. The Administrator shall not engage in any other business, vocation, or employment than that of serving as Administrator. The Administrator is authorized to appoint three Deputy Administrators to assist in the execution of the functions vested in the Administration.

"(c) The Administration is authorized to obtain money from the Treasury of the United States for use in the performance of the powers and duties granted to or imposed upon it by law, not to exceed a total of \$650,000,000 outstanding at any one time. For this purpose appropriations not to exceed \$650,000,000 are hereby authorized to be made to a revolving fund in the Treasury. Advances shall be made to the Administration from the revolving fund when requested by the Administration. This revolving fund shall be used for the purposes enumerated subsequently in sections 7(a), 7(b), and 8(a). Not to exceed an aggregate of \$500,000,000 shall be outstanding at any one time for the purposes enumerated in section 7(a). Not to exceed an aggregate of \$125,000,000 shall be outstanding at any one time for the purposes enumerated in section 7(b). Not to exceed an aggregate of \$25,000,000 shall be outstanding at any one time for the purposes enumerated in section 8(a). The Administration shall pay into miscellaneous receipts of the Treasury, at the close of each fiscal year, interest on the net amount of the cash disbursements from such advances at a rate determined by the Secretary of the Treasury, taking into consideration the current average rate on outstanding interest-bearing marketable public debt obligations of the United States of comparable maturities.

"(d) There is hereby created the Loan Policy Board of the Small Business Administration, which shall consist of the following members, all ex officio: The Administrator, as Chairman, the Secretary of the Treasury, and the Secretary of Commerce. Either of the said Secretaries may designate an officer of his Department, who has been appointed by the President by and with the advice and consent of the Senate, to act in his stead as a member of the Loan Policy Board with respect to any matter or matters. The Loan Policy Board shall establish general policies (particularly with reference to the public interest involved in the granting and denial of applications for finan-

cial assistance by the Administration and with reference to the coordination of the functions of the Administration with other activities and policies of the Government), which shall govern the granting and denial of applications for financial assistance by the Administration.

"Sec. 5. (a) The Administration shall have power to adopt, alter, and use a seal, which shall be judicially noticed. The Administrator is authorized, subject to the civil-service and classification laws, to select, employ, appoint, and fix the compensation of such officers, employees, attorneys, and agents as shall be necessary to carry out the provisions of this Act; to define their authority and duties; to provide bonds for them in such amounts as the Administrator shall determine; and to pay the costs of qualification of certain of them as notaries public. The Administration, with the consent of any board, commission, independent establishment, or executive department of the Government, may avail itself on a reimbursable or nonreimbursable basis of the use of information, services, facilities (including any field service thereof), officers, and employees thereof, in carrying out the provisions of this Act. Subject to the standards and procedures under section 505 of the Classification Act of 1949, as amended,²⁸ not to exceed fifteen positions in the Administration may be placed in grades 16, 17, and 18 of the General Schedule established by that Act, and any such positions shall be additional to the number authorized by such section.

"(b) In the performance of, and with respect to, the functions powers, and duties vested in him by this Act the Administrator may—

"(1) sue and be sued in any court of record of a State having general jurisdiction, or in any United States district court, and jurisdiction is conferred upon such district court to determine such controversies without regard to the amount in controversy; but no attachment, injunction, garnishment, or other similar process, mesne or final, shall be issued against the Administrator or his property;

"(2) under regulations prescribed by him, assign or sell at public or private sale, or otherwise dispose of for cash or credit, in his discretion and upon such terms and conditions and for such consideration as the Administrator shall determine to be reasonable, any evidence of debt, contract, claim, personal property, or security assigned to or held by him in connection with the payment of loans granted under this Act, and to collect or compromise all obligations assigned to or held by him and all legal or equitable rights accruing to him in connection with the payment of such loans until such time as such obligations may be referred to the Attorney General for suit or collection;

"(3) deal with, complete, renovate, improve, modernize, insure, or rent, or sell for cash or credit upon such terms and conditions and for such consideration as the Administrator shall determine to be reasonable, any real property conveyed

to or otherwise acquired by him in connection with the payment of loans granted under this Act;

"(4) pursue to final collection, by way of compromise or otherwise, all claims against third parties assigned to the Administrator in connection with loans made by him. This shall include authority to obtain deficiency judgments or otherwise in the case of mortgages assigned to the Administrator. Section 3709 of the Revised Statutes, as amended (41 U.S.C., sec 5),²⁹ shall not be construed to apply to any contract of hazard insurance or to any purchase or contract for services or supplies on account of property obtained by the Administrator as a result of loans made under this Act if the premium therefor or the amount thereof does not exceed \$1,000. The power to convey and to execute in the name of the Administrator deeds of conveyance, deeds of release, assignments and satisfactions of mortgages, and any other written instrument relating to real property or any interest therein acquired by the Administrator pursuant to the provisions of this Act may be exercised by the Administrator or by any officer or agent appointed by him without the execution of any express delegation of power or power of attorney. Nothing in this section shall be construed to prevent the Administrator from delegating such power by order or by power of attorney, in his discretion, to any officer or agent he may appoint;

"(5) acquire, in any lawful manner, any property (real, personal, or mixed, tangible or intangible), whenever deemed necessary or appropriate to the conduct of the activities authorized in sections 7(a) and 7(b);

"(6) make such rules and regulations as he deems necessary to carry out the authority vested in him by or pursuant to this Act;

"(7) in addition to any powers, functions, privileges, and immunities otherwise vested in him, take any and all actions, including the procurement of the services of attorneys by contract, determined by him to be necessary or desirable in making, servicing, compromising, modifying, liquidating, or otherwise dealing with or realizing on loans made under the provisions of this Act;

but no attorneys' services shall be procured by contract in any office where an attorney or attorneys are or can be economically employed full time to render such services;

"(8) pay the transportation expenses and per diem in lieu of subsistence expenses, in accordance with the Travel Expense Act of 1949, for travel of any person employed by the Administration to render temporary services not in excess of six months in connection with any disaster referred to in section 7(b) from place of appointment to, and while at, the disaster area and any other temporary posts of duty and return upon completion of the assignment; and

"(9) accept the services and facilities of Federal, State, and local agencies and groups, both public and private, and utilize

29. 41 U.S.C.A. § 5.

such gratuitous services and facilities as may, from time to time, be necessary, to further the objectives of section 7(b).

“(c) To such extent as he finds necessary to carry out the provisions of this Act, the Administrator is authorized to procure the temporary (not in excess of one year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services, by contract or appointment, and in such cases such services shall be without regard to the civil-service and classification laws and, except in the case of stenographic reporting services by organizations, without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C., sec. 5). Any individual so employed may be compensated at a rate not in excess of \$50 per diem, and, while such individual is away from his home or regular place of business, he may be allowed transportation and not to exceed \$15 per diem in lieu of subsistence and other expenses.

“Sec. 6. (a) All moneys of the Administration not otherwise employed may be deposited with the Treasury of the United States subject to check by authority of the Administration. The Federal Reserve banks are authorized and directed to act as depositaries, custodians, and fiscal agents for the Administration in the general performance of its powers conferred by this Act. Any banks insured by the Federal Deposit Insurance Corporation, when designated by the Secretary of the Treasury, shall act as custodians and financial agents for the Administration. Each Federal Reserve bank, when designated by the Administrator as fiscal agent for the Administration, shall be entitled to be reimbursed for all expenses incurred as such fiscal agent.

“(b) The Administrator shall contribute to the employees' compensation fund, on the basis of annual billings as determined by the Secretary of Labor, for the benefit payments made from such fund on account of employees engaged in carrying out functions financed by the revolving fund established by section 4(c) of this Act. The annual billings shall also include a statement of the fair portion of the cost of the administration of such fund, which shall be paid by the Administrator into the Treasury as miscellaneous receipts.

“Sec. 7. (a) The Administration is empowered to make loans to enable small-business concerns to finance plant construction, conversion, or expansion, including the acquisition of land; or to finance the acquisition of equipment, facilities, machinery, supplies, or materials; or to supply such concerns with working capital to be used in the manufacture of articles, equipment, supplies, or materials for war, defense, or civilian production or as may be necessary to insure a well-balanced national economy; and such loans may be made or effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis. The foregoing powers shall be subject, however, to the following restrictions and limitations:

“(1) No financial assistance shall be extended pursuant to this subsection unless the financial assistance applied for is not otherwise available on reasonable terms.

"(2) No immediate participation may be purchased unless it is shown that a deferred participation is not available; and no loan may be made unless it is shown that a participation is not available.

"(3) In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

"(4) Except as provided in paragraph (5), (A) no loan under this subsection shall be made if the total amount outstanding and committed (by participation or otherwise) to the borrower from the revolving fund established by this Act would exceed \$350,000; (B) the rate of interest for the Administration's share of any such loan shall be no more than $5\frac{1}{2}$ per centum per annum; and (C) no such loan, including renewals or extensions thereof, may be made for a period or periods exceeding ten years except that a loan made for the purpose of constructing facilities may have a maturity of ten years plus such additional period as is estimated may be required to complete such construction.

"(5) In the case of any loan made under this subsection to a corporation formed and capitalized by a group of small-business concerns with resources provided by them for the purpose of obtaining for the use of such concerns raw materials, equipment, inventories, supplies or the benefits of research and development, or for establishing facilities for such purpose, (A) the limitation of \$350,000 prescribed in paragraph (4) shall not apply, but the limit of such loan shall be \$250,000 multiplied by the number of separate small businesses which formed and capitalized such corporation; (B) the rate of interest for the Administration's share of such loan shall be no less than 3 nor more than 5 per centum per annum; and (C) such loan, including renewals and extensions thereof, may not be made for a period or periods exceeding ten years except that if such loan is made for the purpose of constructing facilities it may have a maturity of twenty years plus such additional time as is required to complete such construction.

"(6) The Administrator is authorized to consult with representatives of small-business concerns with a view to encouraging the formation by such concerns of the corporation referred to in paragraph (5). No act or omission to act, if requested by the Administrator pursuant to this paragraph, and if found and approved by the Administration as contributing to the needs of small business, shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act of the United States. A copy of the statement of any such finding and approval intended to be within the coverage of this section, and any modification or withdrawal thereof, shall be furnished to the Attorney General and the Chairman of the Federal Trade Commission when made, and it shall be published in the Federal Register. The authority granted in this paragraph shall

be exercised only (A) by the Administrator, (B) upon the condition that the Administrator consult with the Attorney General and with the Chairman of the Federal Trade Commission, and (C) upon the condition that the Administrator obtain the approval of the Attorney General before exercising such authority. Upon withdrawal of any request or finding hereunder or upon withdrawal by the Attorney General of his approval granted under the preceding sentence, the provisions of this paragraph shall not apply to any subsequent act or omission to act by reason of such finding or request.

“(7) All loans made under this subsection shall be of such sound value or so secured as reasonably to assure repayment.

“(b) The Administration also is empowered—

“(1) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate because of floods or other catastrophes; and

“(2) to make such loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred basis) as the Administration may determine to be necessary or appropriate to any small-business concern located in an area affected by a drought or excessive rainfall, if the Administration determines that the small-business concern has suffered a substantial economic injury as a result of such drought or excessive rainfall and the President has determined under the Act entitled ‘An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes’, approved September 30, 1950, as amended (42 U.S.C., secs. 1855-1855g),³⁰ that such drought or excessive rainfall is a major disaster, or the Secretary of Agriculture has found under the Act entitled ‘An Act to abolish the Regional Agricultural Credit Corporation of Washington, District of Columbia, and transfer its functions to the Secretary of Agriculture, to authorize the Secretary of Agriculture to make disaster loans, and for other purposes’, approved April 6, 1949, as amended (12 U.S.C., secs. 1148a-1-1148a-3),³¹ that such drought or excessive rainfall constitutes a production or economic disaster in such area.

No loan under this subsection, including renewals and extensions thereof, may be made for a period or periods exceeding twenty years. The interest rate on the Administration's share of any loan made under this subsection shall not exceed 3 per centum per annum. In agreements to participate in loans on a deferred basis under this subsection, such participation by the Administration shall not be in excess of 90 per centum of the balance of the loan outstanding at the time of disbursement.

“(c) The Administration may further extend the maturity of or renew any loan made pursuant to this section, or any loan trans-

30. 42 U.S.C.A. §§ 1855-1855g.

31. 12 U.S.C.A. §§ 1148a-1 to 1148a-3.

ferred to the Administration pursuant to Reorganization Plan Numbered 2 of 1954, or Reorganization Plan Numbered 1 of 1957,³² for additional periods not to exceed ten years beyond the period stated therein, if such extension or renewal will aid in the orderly liquidation of such loan.

"Sec. 8. (a) It shall be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary—

"(1) to enter into contracts with the United States Government and any department, agency, or officer thereof having procurement powers obligating the Administration to furnish articles, equipment, supplies, or materials to the Government. In any case in which the Administration certifies to any officer of the Government having procurement powers that the Administration is competent to perform any specific Government procurement contract to be let by any such officer, such officer shall be authorized in his discretion to let such procurement contract to the Administration upon such terms and conditions as may be agreed upon between the Administration and the procurement officer; and

"(2) to arrange for the performance of such contracts by negotiating or otherwise letting subcontracts to small-business concerns or others for the manufacture, supply, or assembly of such articles, equipment, supplies, or materials, or parts thereof, or servicing or processing in connection therewith, or such management services as may be necessary to enable the Administration to perform such contracts.

"(b) It shall also be the duty of the Administration and it is hereby empowered, whenever it determines such action is necessary—

"(1) to provide technical and managerial aids to small-business concerns, by advising and counseling on matters in connection with Government procurement and property disposal and on policies, principles, and practices of good management, including but not limited to cost accounting, methods of financing, business insurance, accident control, wage incentives, and methods engineering, by cooperating and advising with voluntary business, professional, educational, and other nonprofit organizations, associations, and institutions and with other Federal and State agencies, by maintaining a clearinghouse for information concerning the managing, financing, and operation of small-business enterprises, by disseminating such information, and by such other activities as are deemed appropriate by the Administration;

"(2) to make a complete inventory of all productive facilities of small-business concerns or to arrange for such inventory to be made by any other governmental agency which has the facilities. In making any such inventory, the appropriate agencies in the several States may be requested to furnish an inventory of the productive facilities of small-business con-

32. 5 U.S.C.A. § 1332—15 note.

cerns in each respective State if such an inventory is available or in prospect;

“(3) to coordinate and to ascertain the means by which the productive capacity of small-business concerns can be most effectively utilized;

“(4) to consult and cooperate with officers of the Government having procurement or property disposal powers, in order to utilize the potential productive capacity of plants operated by small-business concerns;

“(5) to obtain information as to methods and practices which Government prime contractors utilize in letting subcontracts and to take action to encourage the letting of subcontracts by prime contractors to small-business concerns at prices and on conditions and terms which are fair and equitable;

“(6) to determine within any industry the concerns, firms, persons, corporations, partnerships, cooperatives, or other business enterprises which are to be designated ‘small-business concerns’ for the purpose of effectuating the provisions of this Act. To carry out this purpose the Administrator, when requested to do so, shall issue in response to each such request an appropriate certificate certifying an individual concern as a ‘small-business concern’ in accordance with the criteria expressed in this Act. Any such certificate shall be subject to revocation when the concern covered thereby ceases to be a ‘small-business concern’. Offices of the Government having procurement or lending powers, or engaging in the disposal of Federal property or allocating materials or supplies, or promulgating regulations affecting the distribution of materials or supplies, shall accept as conclusive the Administration’s determination as to which enterprises are to be designated ‘small-business concerns’, as authorized and directed under this paragraph;

“(7) to certify to Government procurement officers, and officers engaged in the sale and disposal of Federal property, with respect to the competency, as to capacity and credit, of any small-business concern or group of such concerns to perform a specific Government contract. In any case in which a small-business concern or group of such concerns has been certified by or under the authority of the Administration to be a competent Government contractor with respect to capacity and credit as to a specific Government contract, the officers of the Government having procurement or property disposal powers are directed to accept such certification as conclusive, and are authorized to let such Government contract to such concern or group of concerns without requiring it to meet any other requirement with respect to capacity and credit;

“(8) to obtain from any Federal department, establishment, or agency engaged in procurement or in the financing of procurement or production such reports concerning the letting of contracts and subcontracts and the making of loans to business concerns as it may deem pertinent in carrying out its functions under this Act;

"(9) to obtain from any Federal department, establishment, or agency engaged in the disposal of Federal property such reports concerning the solicitation of bids, time of sale, or otherwise as it may deem pertinent in carrying out its functions under this Act;

"(10) to obtain from suppliers of materials information pertaining to the method of filling orders and the bases for allocating their supply, whenever it appears that any small business is unable to obtain materials from its normal sources;

"(11) to make studies and recommendations to the appropriate Federal agencies to insure that a fair proportion of the total purchases and contracts for property and services for the Government be placed with small-business enterprises, to insure that a fair proportion of Government contracts for research and development be placed with small-business concerns, to insure that a fair proportion of the total sales of Government property be made to small-business concerns, and to insure a fair and equitable share of materials, supplies, and equipment to small-business concerns;

"(12) to consult and cooperate with all Government agencies for the purpose of insuring that small-business concerns shall receive fair and reasonable treatment from such agencies; and

"(13) to establish such small business advisory boards and committees truly representative of small business as may be necessary to achieve the purposes of this Act.

"(c) The Administration shall from time to time make studies of matters materially affecting the competitive strength of small business, and of the effect on small business of Federal laws, programs, and regulations, and shall make recommendations to the appropriate Federal agency or agencies for the adjustment of such programs and regulations to the needs of small business.

"Sec. 9. (a) Research and development are major factors in the growth and progress of industry and the national economy. The expense of carrying on research and development programs is beyond the means of many small-business concerns, and such concerns are handicapped in obtaining the benefits of research and development programs conducted at Government expense. These small-business concerns are thereby placed at a competitive disadvantage. This weakens the competitive free enterprise system and prevents the orderly development of the national economy. It is the policy of the Congress that assistance be given to small-business concerns to enable them to undertake and to obtain the benefits of research and development in order to maintain and strengthen the competitive free enterprise system and the national economy.

"(b) It shall be the duty of the Administration, and it is hereby empowered—

"(1) to assist small-business concerns to obtain Government contracts for research and development;

"(2) to assist small-business concerns to obtain the benefits of research and development performed under Government contracts or at Government expense; and

“(3) to provide technical assistance to small-business concerns to accomplish the purposes of this section.

“(c) The Administration is authorized to consult and cooperate with all Government agencies and to make studies and recommendations to such agencies, and such agencies are authorized and directed to cooperate with the Administration in order to carry out and to accomplish the purposes of this section.

“(d)(1) The Administrator is authorized to consult with representatives of small-business concerns with a view to assisting and encouraging such firms to undertake joint programs for research and development carried out through such corporate or other mechanism as may be most appropriate for the purpose. Such joint programs may, among other things, include the following purposes:

“(A) to construct, acquire, or establish laboratories and other facilities for the conduct of research;

“(B) to undertake and utilize applied research;

“(C) to collect research information related to a particular industry and disseminate it to participating members;

“(D) to conduct applied research on a protected, proprietary, and contractual basis with member or nonmember firms, Government agencies, and others;

“(E) to prosecute applications for patents and render patent services for participating members; and

“(F) to negotiate and grant licenses under patents held under the joint program, and to establish corporations designed to exploit particular patents obtained by it.

“(2) The Administrator may, after consultation with the Attorney General and the Chairman of the Federal Trade Commission, and with the prior written approval of the Attorney General, approve any agreement between small-business firms providing for a joint program of research and development, if the Administrator finds that the joint program proposed will maintain and strengthen the free enterprise system and the economy of the Nation. The Administrator or the Attorney General may at any time withdraw his approval of the agreement and the joint program of research and development covered thereby, if he finds that the agreement or the joint program carried on under it is no longer in the best interests of the competitive free enterprise system and the economy of the Nation. A copy of the statement of any such finding and approval intended to be within the coverage of this subsection, and a copy of any modification or withdrawal of approval, shall be published in the Federal Register. The authority conferred by this subsection on the Administrator shall not be delegated by him.

“(3) No act or omission to act pursuant to and within the scope of any joint program for research and development, under an agreement approved by the Administrator under this subsection, shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act. Upon publication in the Federal Register of the notice of withdrawal of his approval of the agreement granted under this subsection, either by the Administrator or by the Attorney General, the provisions of this subsection shall not

apply to any subsequent act or omission to act by reason of such agreement or approval.

"Sec. 10. (a) The Administration shall make a report every six months of operations under this Act to the President, the President of the Senate, and the Speaker of the House of Representatives. Such report shall include the names of the business concerns to whom contracts are let and for whom financing is arranged by the Administration, together with the amounts involved, and such report shall include such other information and such comments and recommendations as the Administration may deem appropriate.

"(b) The Administration shall make a report to the President, the President of the Senate, and the Speaker of the House of Representatives, to the Senate Select Committee on Small Business, and to the House Select Committee To Conduct a Study and Investigation of the Problems of Small Business, on June 30 and December 31 of each year, showing as accurately as possible for each such period the amount of funds appropriated to it that it has expended in the conduct of each of its principal activities such as lending, procurement, contracting, and providing technical and managerial aids.

"(c) The Attorney General is directed to make, or request the Federal Trade Commission to make for him, surveys for the purpose of determining any factors which may tend to eliminate competition, create or strengthen monopolies, injure small business, or otherwise promote undue concentration of economic power in the course of the administration of this Act. The Attorney General shall submit to the Congress and the President, at such times as he deems desirable, reports setting forth the results of such surveys and including such recommendations as he may deem desirable.

"(d) For the purpose of aiding in carrying out the national policy to insure that a fair proportion of the total purchases and contracts for property and services for the Government be placed with small-business enterprises, and to maintain and strengthen the overall economy of the Nation, the Department of Defense shall make a monthly report to the President, the President of the Senate, and the Speaker of the House of Representatives not less than forty-five days after the close of the month, showing the amount of funds appropriated to the Department of Defense which have been expended, obligated, or contracted to be spent with small-business concerns and the amount of such funds expended, obligated, or contracted to be spent with firms other than small business in the same fields of operation; and such monthly reports shall show separately the funds expended, obligated, or contracted to be spent for basic and applied scientific research and development.

"(e) The Administration shall retain all correspondence, records of inquiries, memoranda, reports, books, and records, including memoranda as to all investigations conducted by or for the Administration, for a period of at least one year from the date of each thereof, and shall at all times keep the same available for inspection and examination by the Senate Select Committee on Small Business and the House Select Committee To Conduct a Study and Investiga-

tion of the Problems of Small Business, or their duly authorized representatives.

“(f) To the extent deemed necessary by the Administrator to protect and preserve small-business interests, the Administration shall consult and cooperate with other departments and agencies of the Federal Government in the formulation by the Administration of policies affecting small-business concerns. When requested by the Administrator, each department and agency of the Federal Government shall consult and cooperate with the Administration in the formulation by such department or agency of policies affecting small-business concerns, in order to insure that small-business interests will be recognized, protected, and preserved. This subsection shall not require any department or agency to consult or cooperate with the Administration in any case where the head of such department or agency determines that such consultation or cooperation would unduly delay action which must be taken by such department or agency to protect the national interest in an emergency.

“Sec. 11. (a) The President is authorized to consult with representatives of small-business concerns with a view to encouraging the making by such persons with the approval of the President of voluntary agreements and programs to further the objectives of this Act.

“(b) No act or omission to act pursuant to this Act which occurs while this Act is in effect, if requested by the President pursuant to a voluntary agreement or program approved under subsection (a) of this section and found by the President to be in the public interest as contributing to the national defense, shall be construed to be within the prohibitions of the antitrust laws or the Federal Trade Commission Act of the United States. A copy of each such request intended to be within the coverage of this section, and any modification or withdrawal thereof, shall be furnished to the Attorney General and the Chairman of the Federal Trade Commission when made, and it shall be published in the Federal Register unless publication thereof would, in the opinion of the President, endanger the national security.

“(c) The authority granted in subsection (b) of this section shall be delegated only (1) to an official who shall for the purpose of such delegation be required to be appointed by the President by and with the advice and consent of the Senate, (2) upon the condition that such official consult with the Attorney General and the Chairman of the Federal Trade Commission not less than ten days before making any request or finding thereunder, and (3) upon the condition that such official obtain the approval of the Attorney General to any request thereunder before making the request.

“(d) Upon withdrawal of any request or finding hereunder, or upon withdrawal by the Attorney General of his approval of the voluntary agreement or program on which the request or finding is based, the provisions of this section shall not apply to any subsequent act, or omission to act, by reason of such finding or request.

“Sec. 12. The President may transfer to the Administration any functions, powers, and duties of any department or agency which

relate primarily to small-business problems. In connection with any such transfer, the President may provide for appropriate transfers of records, property, necessary personnel, and unexpended balances of appropriations and other funds available to the department or agency from which the transfer is made.

"Sec. 13. No loan shall be made or equipment, facilities, or services furnished by the Administration under this Act to any business enterprise unless the owners, partners, or officers of such business enterprise (1) certify to the Administration the names of any attorneys, agents, or other persons engaged by or on behalf of such business enterprise for the purpose of expediting applications made to the Administration for assistance of any sort, and the fees paid or to be paid to any such persons; (2) execute an agreement binding any such business enterprise for a period of two years after any assistance is rendered by the Administration to such business enterprise, to refrain from employing, tendering any office or employment to, or retaining for professional services, any person who, on the date such assistance or any part thereof was rendered, or within one year prior thereto, shall have served as an officer, attorney, agent, or employee of the Administration occupying a position or engaging in activities which the Administration shall have determined involve discretion with respect to the granting of assistance under this Act; and (3) furnish the names of lending institutions to which such business enterprise has applied for loans together with dates, amounts, terms, and proof of refusal.

"Sec. 14. To the fullest extent the Administration deems practicable, it shall make a fair charge for the use of Government-owned property and make and let contracts on a basis that will result in a recovery of the direct costs incurred by the Administration.

"Sec. 15. To effectuate the purposes of this Act, small-business concerns within the meaning of this Act shall receive any award or contract or any part thereof, and be awarded any contract for the sale of Government property, as to which it is determined by the Administration and the contracting procurement or disposal agency (1) to be in the interest of maintaining or mobilizing the Nation's full productive capacity, (2) to be in the interest of war or national defense programs, (3) to be in the interest of assuring that a fair proportion of the total purchases and contracts for property and services for the Government are placed with small-business concerns, or (4) to be in the interest of assuring that a fair proportion of the total sales of Government property be made to small-business concerns; but nothing contained in this Act shall be construed to change any preferences or priorities established by law with respect to the sale of electrical power or other property by the Government or any agency thereof. These determinations may be made for individual awards or contracts or for classes of awards or contracts. Whenever the Administration and the contracting procurement agency fail to agree, the matter shall be submitted for determination to the Secretary or the head of the appropriate department or agency by the Administrator.

"Sec. 16. (a) Whoever makes any statement knowing it to be false, or whoeever willfully overvalues any security, for the purpose of obtaining for himself or for any applicant any loan, or extension thereof by renewal, deferment of action, or otherwise, or the acceptance, release, or substitution of security therefor, or for the purpose of influencing in any way the action of the Administration, or for the purpose of obtaining money, property, or anything of value, under this Act, shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than two years, or both.

"(b) Whoever, being connected in any capacity with the Administration, (1) embezzles, abstracts, purloins, or willfully misapplies any moneys, funds, securities, or other things of value, whether belonging to it or pledged or otherwise entrusted to it, or (2) with intent to defraud the Administration or any other body politic or corporate, or any individual, or to deceive any officer, auditor, or examiner of the Administration, makes any false entry in any book, report, or statement of or to the Administration, or, without being duly authorized, draws any order or issues, puts forth, or assigns any note, debenture, bond, or other obligation, or draft, bill of exchange, mortgage, judgment, or decree thereof, or (3) with intent to defraud participates or shares in or receives directly or indirectly any money, profit, property, or benefit through any transaction, loan, commission, contract, or any other act of the Administration, or (4) gives any unauthorized information concerning any future action or plan of the Administration which might affect the value of securities, or, having such knowledge, invests or speculates, directly or indirectly, in the securities or property of any company or corporation receiving loans or other assistance from the Administration, shall be punished by a fine of not more than \$10,000 or by imprisonment for not more than five years, or both.

"Sec. 17. Any interest held by the Administration in property, as security for a loan, shall be subordinate to any lien on such property for taxes due on the property to a State, or political subdivision thereof, in any case where such lien would, under applicable State law, be superior to such interest if such interest were held by any party other than the United States.

"Sec. 18. The Administration shall not duplicate the work or activity of any other department or agency of the Federal Government and nothing contained in this Act shall be construed to authorize any such duplication unless such work or activity is expressly provided for in this Act.

"Sec. 19. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

"Sec. 20. There are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes of this Act.

"Sec. 21. All laws and parts of laws inconsistent with this Act are hereby repealed to the extent of such inconsistency."

Sec. 3. The fourth paragraph of section 24 of the Federal Reserve Act ³ is amended (1) by striking out "or the Small Business Administration" and "or of the Small Business Act of 1953," and (2) by adding at the end thereof the following new sentence: "Loans in which the Small Business Administration cooperates through agreements to participate on an immediate or deferred basis under the Small Business Act shall not be subject to the restrictions or limitations of this section imposed upon loans secured by real estate."

Sec. 4. The Secretary of the Treasury is hereby authorized to further extend the maturity of or renew any loan transferred to the Secretary of the Treasury pursuant to Reorganization Plan Numbered 1 of 1957, for additional periods not to exceed ten years, if such extension or renewal will aid in the orderly liquidation of such loan.

Approved July 18, 1958.

DISTRICT OF COLUMBIA—CRIMINAL CASES—BONDS

PUBLIC LAW 85-537; 72 STAT. 396

[H. R. 7349]

An Act to amend the Act regulating the business of executing bonds for compensation in criminal cases in the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That:

The first sentence of section 8(a) of the Act entitled "An Act to regulate the business of executing bonds for compensation in criminal cases and to improve the administration of justice in the District of Columbia", approved March 3, 1933, as amended (47 Stat. 1484; 67 Stat. 106), is amended by striking out the words "police court, juvenile court, and the criminal divisions of the Supreme Court of the District of Columbia" and inserting in lieu thereof the words "United States District Court for the District of Columbia, the municipal court for the District of Columbia, and the juvenile court of the District of Columbia."

Approved July 18, 1958.

33. 12 U.S.C.A. § 371.